



January 30, 2004

## HOUSE BILL No. 1151

DIGEST OF HB 1151 (Updated January 27, 2004 1:41 pm - DI 75)

**Citations Affected:** IC 3-11; IC 3-14; IC 35-44; noncode.

**Synopsis:** Absentee ballots. Permits a voter who is qualified to vote in person to vote by absentee ballot by mail. Removes all other qualifications for a voter to vote by absentee ballot by mail except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) Requires an absentee ballot application to be filed within specific times. Requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. Requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. Permits an absentee voter board or the circuit court clerk to compare the signature on an absentee ballot application to the signature on the voter's registration record to make certain determinations regarding the validity of an absentee ballot. Permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. Provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. Requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. Makes other changes relating to absentee ballots. Establishes new criminal offenses relating to fraud and misrepresentation in elections.

**Effective:** Upon passage; July 1, 2004.

**Mahern**

January 13, 2004, read first time and referred to Committee on Elections and Apportionment.  
January 29, 2004, amended, reported — Do Pass.

HB 1151—LS 7090/DI 75+



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January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1151

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 3-11-4-1, AS AMENDED BY P.L.126-2002,  
2 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]: Sec. 1. (a) A voter who is otherwise qualified to vote  
4 in person is entitled to vote by absentee ballot: ~~Except~~

5 (1) **by mail;**

6 (2) **before an absentee voter board** as ~~otherwise~~ provided in this  
7 article; ~~a voter voting by absentee ballot must vote~~

8 (3) in the office of the circuit court clerk; or

9 (4) at a satellite office established under IC 3-11-10-26.3.

10 (b) A county election board, by unanimous vote of its entire  
11 membership, may authorize a person who is otherwise qualified to vote  
12 in person to vote by absentee ballot if the board determines that the  
13 person has been hospitalized or suffered an injury following the final  
14 date and hour for applying for an absentee ballot that would prevent the  
15 person from voting in person at the polls.

16 (c) The commission, by unanimous vote of its entire membership,  
17 may authorize a person who is otherwise qualified to vote in person to

HB 1151—LS 7090/DI 75+



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1 vote by absentee ballot if the commission determines that an  
2 emergency prevents the person from voting in person at a polling place.

3 (d) The absentee ballots used in subsection (b) or (c) must be the  
4 same official absentee ballots as described in section 12 and 13 of this  
5 chapter. Taking into consideration the amount of time remaining before  
6 the election, the commission shall determine whether the absentee  
7 ballots are transmitted to and from the voter by mail or personally  
8 delivered. An absentee ballot that is personally delivered shall comply  
9 with the requirements in sections 19, 20, and 21 of this chapter.

10 SECTION 2. IC 3-11-4-2, AS AMENDED BY P.L.126-2002,  
11 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee  
13 ballot must apply to the county election board for an official absentee  
14 ballot. **Except as provided in subsection (b), the voter must sign the**  
15 **absentee ballot application.**

16 (b) **If a voter with disabilities is unable to sign the absentee**  
17 **ballot application and the voter has not designated an individual to**  
18 **serve as attorney in fact for the voter, the county election board**  
19 **may designate an individual to sign the application on behalf of the**  
20 **voter.** If an individual applies for an absentee ballot as the properly  
21 authorized attorney in fact for a voter, the attorney in fact must attach  
22 a copy of the power of attorney to the application.

23 (c) **A person who assists an individual in completing an absentee**  
24 **ballot application shall state the following information on the**  
25 **application:**

26 (1) **The full name, residence and mailing address, and daytime**  
27 **and evening telephone numbers (if any) of the individual**  
28 **submitting the application.**

29 (2) **The date and location at which this assistance was**  
30 **provided.**

31 (3) **That the individual has no knowledge or reason to believe**  
32 **that the individual submitting the application:**

33 (A) **is ineligible to vote or ineligible to cast an absentee**  
34 **ballot; or**

35 (B) **did not properly complete and sign the application.**

36 (d) **A person who receives a completed absentee ballot**  
37 **application from the individual who has applied for the absentee**  
38 **ballot shall file the application with the appropriate county election**  
39 **board not later than:**

40 (1) **noon seven (7) days after the individual receives the**  
41 **application; or**

42 (2) **the deadline set by Indiana law for filing the application**

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1 with the board;  
2 whichever occurs first.

3 (e) An individual filing an absentee ballot application received  
4 from another individual must sign an affidavit at the time of filing  
5 the application. The affidavit must be in a form prescribed by the  
6 commission. The form must include the following:

7 (1) A statement of the full name, residence and mailing  
8 address, and daytime and evening telephone numbers (if any)  
9 of the individual submitting the application.

10 (2) A statement that the individual filing the affidavit has  
11 complied with the Indiana laws governing the submission of  
12 absentee ballot applications.

13 (3) A statement that the individual has no knowledge or  
14 reason to believe that the individual whose application is to be  
15 filed:

16 (A) is ineligible to vote or to cast an absentee ballot; or

17 (B) did not properly complete and sign the application.

18 (4) A statement that the individual is executing the affidavit  
19 under the penalties of perjury.

20 (5) A statement setting forth the penalties for perjury.

21 (f) The county election board shall record the date and time of  
22 the filing of the affidavit and provide the individual with a file  
23 stamped copy of the affidavit without collecting any copying fee.

24 SECTION 3. IC 3-11-4-5.1 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The  
26 commission shall prescribe the form of an application for an absentee  
27 ballot.

28 (b) This subsection does not apply to the form for an absentee  
29 ballot application to be submitted by an absent uniformed services  
30 voter or overseas voter which contains a standardized oath for  
31 those voters. The form of the application for an absentee ballot  
32 must:

33 (1) require the applicant to swear to or affirm under the  
34 penalties of perjury that all the information set forth on the  
35 application is true to the best of the applicant's knowledge and  
36 belief;

37 (2) require a person who assisted with the completion of the  
38 application to swear to or affirm under the penalties of  
39 perjury the statements set forth in section 2(c) of this chapter;  
40 and

41 (3) set forth the penalties for perjury.

42 (c) The form prescribed by the commission shall require that a voter

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who:

- (1) requests an absentee ballot; and
- (2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board **(or the absentee voter board in the office of the circuit court clerk)** shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) **the information set forth on the application appears to be true; and**
- (3) **the application has been completed and filed in accordance with Indiana and federal law.**

**If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. The members of the absentee voter board or the county election board may compare the voter's signature on the application with the voter's signature on the voter's registration record to make a determination under this subsection.**

(b) If:

- (1) the applicant is not a voter of the precinct according to the registration record; or ~~if~~
- (2) the application as completed and filed:
  - (A) **contains a false statement; or**
  - (B) **does not otherwise comply with this chapter; Indiana or federal law;**

**as alleged under section 18.5 of this chapter,** the county election board shall deny the application.

~~(b)~~ (c) This subsection applies ~~after December 31, 2003,~~ to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The

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notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and
- (2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(c) This subsection applies after December 31, 2003.~~

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ (e) If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 5. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) ~~If a voter satisfies any of the following~~, The county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

- ~~(1) The voter will be absent from the county on election day;~~
- ~~(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:~~

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- 1 (A) a precinct election officer under IC 3-6-6;  
 2 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;  
 3 (C) a challenger or pollbook holder under IC 3-6-7; or  
 4 (D) a person employed by an election board to administer the  
 5 election for which the absentee ballot is requested.  
 6 (3) The voter will be confined on election day to the voter's  
 7 residence, to a health care facility, or to a hospital because of an  
 8 illness or injury.  
 9 (4) The voter is a voter with disabilities.  
 10 (5) The voter is an elderly voter.  
 11 (6) The voter is prevented from voting due to the voter's care of  
 12 an individual confined to a private residence because of illness or  
 13 injury.  
 14 (7) The voter is scheduled to work at the person's regular place of  
 15 employment during the entire twelve (12) hours that the polls are  
 16 open.  
 17 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.  
 18 (b) This subsection applies after December 31, 2003. If the county  
 19 election board mails an absentee ballot to a voter required to file  
 20 additional documentation with the county voter registration office  
 21 before voting by absentee ballot under this chapter, the board shall  
 22 include a notice to the voter in the envelope mailed to the voter under  
 23 section 20 of this chapter. The notice must inform the voter that the  
 24 voter must file the additional documentation required under  
 25 IC 3-7-33-4.5 with the county voter registration office not later than  
 26 noon on election day for the absentee ballot to be counted. The  
 27 commission shall prescribe the form of this notice under IC 3-5-4-8.  
 28 (c) The ballot shall be mailed:  
 29 (1) on the day of the receipt of the voter's application; or  
 30 (2) not more than five (5) days after the date of delivery of the  
 31 ballots under section 15 of this chapter;  
 32 whichever is later.  
 33 (d) In addition to the ballot mailed under subsection (c), the county  
 34 election board shall mail a special absentee ballot for overseas voters.  
 35 (e) The ballot described in subsection (d):  
 36 (1) must be mailed:  
 37 (A) on the day of the receipt of the voter's application; or  
 38 (B) not more than five (5) days after the date of delivery of the  
 39 ballots under section 13(b) of this chapter;  
 40 whichever is later; and  
 41 (2) may not be mailed after the absentee ballots described by  
 42 section 13(a) of this chapter have been delivered to the circuit

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court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 6. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:**

**(1) is not submitted by a voter of the precinct;**

**(2) contains a false statement; or**

**(3) has not been executed or filed in accordance with Indiana or federal law.**

**(b) The affidavit must be in a form prescribed by the commission and state the following:**

**(1) The name and title of the individual filing the affidavit.**

**(2) A brief statement of the facts known or believed by the individual regarding why:**

**(A) the applicant is not a voter of the precinct;**

**(B) the application contains a false statement; or**

**(C) the application has not been executed or filed in accordance with Indiana or federal law.**

**(3) That the individual is executing the affidavit under the penalties of perjury.**

**(4) The penalties for perjury.**

**(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.**

**(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.**

SECTION 7. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

(1) The name of the precinct and township (or ward and city or town).

(2) That the voter is:

(A) a resident of; or

(B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.

(3) The voter's complete residence address, including the name of the city or town and county.

(4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.

(5) That:

(A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;

(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

**(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury.**

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SECTION 8. IC 3-11-10-24, AS AMENDED BY P.L.126-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail.

(1) The voter will be absent from the county on election day:

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested:

(3) The voter will be confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury:

(4) The voter is a voter with disabilities:

(5) The voter is an elderly voter:

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury:

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open:

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12:

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

**(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall then deposit the sealed envelope in the United States mail for delivery to the county election board or may authorize a member of the voter's household or the individual designated as the voter's attorney in fact to deposit the envelope in the United States mail.**

~~(c)~~ (d) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

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(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 9. IC 3-11-10-25, AS AMENDED BY P.L.209-2003, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

(1) during the regular office hours of the circuit court clerk;

(2) at a time agreed to by the board and the voter;

(3) on any of the twelve (12) days immediately before election day; and

(4) only once before an election, unless:

(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

(1) agreed to by the board and the voter; and

(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the

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votes selected by the voter before the ballot is cast and counted;  
 (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

**(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:**

**(1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**

**(2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**

**(3) Information concerning how to report violations of the absentee ballot and election laws.**

SECTION 10. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a ~~Class A misdemeanor~~ knowingly does any of the following commits a Class D felony:

**(1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.**

**(2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.**

**(3) Pays or offers to pay an individual for doing any of the**

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following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

(4) Accepts the payment of any property for doing any of the following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

SECTION 11. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to vote or to vote, commits absentee ballot fraud, a Class D felony:**

(1) Solicits the individual to complete an absentee ballot application.

(2) Solicits the individual to submit an absentee ballot application to a county election board.

SECTION 12. IC 3-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. A person who:**

(1) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** knowing that the application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** without writing on it the person's own name and address as an attesting witness;

~~commits a Class A misdemeanor.~~ **Class D felony.**

SECTION 13. IC 3-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) A person who recklessly destroys or fails to deliver an absentee ballot application to the proper officer after the application has been executed in accordance with IC 3-11-4 commits a Class A misdemeanor.**

**(b) A person who recklessly destroys or fails to file or deliver to the proper officer a registration affidavit or form of registration after it the affidavit or form has been executed commits a Class A misdemeanor.**

SECTION 14. IC 3-14-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13. A person who knowingly hires or solicits another person**

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1           (1) to come into Indiana; or  
 2           (2) to go from one precinct into another a precinct  
 3 for the purpose of voting at an election **at the precinct** when the person  
 4 hired or solicited is not a voter in ~~Indiana~~ or the precinct commits a  
 5 Class D felony.

6           SECTION 15. IC 3-14-2-15 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of  
 8 the commission, an employee **or agent** of the ~~commission~~, **election**  
 9 **division**, or a member, **an employee, or an agent** of a county election  
 10 board who knowingly delivers a ballot to a person except in the manner  
 11 prescribed by this title commits a Class D felony.

12           SECTION 16. IC 3-14-2-16, AS AMENDED BY P.L.38-1999,  
 13 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 UPON PASSAGE]: Sec. 16. A person who knowingly does any of the  
 15 following commits a Class D felony:

16           (1) Applies for or receives a ballot in a precinct other than that  
 17 precinct in which the person is entitled to vote.

18           (2) Except when receiving assistance under IC 3-11-9, shows a  
 19 ballot after it is marked to another person in such a way as to  
 20 reveal the contents of it or the name of a candidate for whom the  
 21 person has voted.

22           (3) Except when offering assistance requested by a voter in  
 23 accordance with IC 3-11-9, examines a ballot that a voter has  
 24 prepared for voting or solicits the voter to show the ballot.

25           (4) Receives from a voter a ballot prepared by the voter for  
 26 voting, except:

27           (A) the inspector;

28           (B) a member of the precinct election board temporarily acting  
 29 for the inspector;

30           (C) a member of a county election board or an absentee voter  
 31 board acting under IC 3-11-10; or

32           (D) a member of the voter's household or an individual  
 33 designated as attorney in fact for the voter, **or an employee of**  
 34 **the United States Postal Service**, when delivering an  
 35 envelope containing an absentee ballot under IC 3-11-10-1.

36           (5) Receives a ballot from a person other than one of the poll  
 37 clerks or authorized assistant poll clerks.

38           (6) Delivers a ballot to a voter to be voted, unless the person is:

39           (A) a poll clerk or authorized assistant poll clerk; or

40           (B) a member of a county election board or an absentee voter  
 41 board acting under IC 3-11-10.

42           (7) Delivers a ballot (other than an absentee ballot) to an inspector

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that is not the ballot the voter receives from the poll clerk or assistant poll clerk.

(8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.

**(9) Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:**

**(A) the inspector;**

**(B) a member of the precinct election board temporarily acting for the inspector;**

**(C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or**

**(D) a member of the voter's household or an individual designated as attorney in fact for the voter, or an employee of the United States Postal Service, when mailing an envelope containing an absentee ballot under IC 3-11-10-1.**

**(10) Possesses an unmarked absentee ballot, unless the person is authorized to possess the absentee ballot under this title as any of the following:**

**(A) A printer.**

**(B) A county election board member.**

**(C) An absentee voter board member.**

**(D) An employee of the United States Postal Service when delivering an envelope containing an absentee ballot.**

**(E) An individual authorized to deliver an absentee ballot in a sealed envelope under IC 3-11-10-24.**

**(F) An absentee ballot counter under IC 3-11.5.**

**(G) A provisional ballot counter.**

**(H) A precinct election officer.**

**(I) The voter who applied for the absentee ballot.**

**(11) Completes or signs an absentee ballot application for a voter, or assists a voter in completing an absentee ballot application in violation of IC 3-11.**

SECTION 17. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who knowingly:

(1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted on a voting ~~machine~~; **system**; or

(2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public

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1 questions any other voter votes on a voting ~~machine~~, **system**;  
2 commits a Class D felony.

3 SECTION 18. IC 3-14-2-24 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

5 (1) takes a ballot legally deposited out of a ballot box **or out of a**  
6 **voting system** for the purpose of destroying ~~it~~ **the ballot** or  
7 substituting another **ballot** in its place;

8 (2) destroys or misplaces a ballot with the intent to substitute  
9 another ballot for it or with the intent to prevent it from being  
10 counted; or

11 (3) knowingly enters upon the poll books the name of a person  
12 who has not legally voted or knowingly tallies a vote for a  
13 candidate or on a public question not voted for by the ballot;  
14 commits a Class D felony.

15 SECTION 19. IC 3-14-2-26 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

17 (1) during the progress of an election or within the time for  
18 preparation required under this title, knowingly breaks open or  
19 violates the seal or lock of a ballot box, envelope, container, ~~or~~  
20 bag, **or voting system component** in which ballots have been  
21 deposited;

22 (2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or**  
23 **voting system component** that contains ballots and cancels,  
24 withholds, or destroys a ballot;

25 (3) knowingly increases or decreases the number of ballots legally  
26 deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting**  
27 **system component**; or

28 (4) knowingly makes a fraudulent erasure or alteration on a tally  
29 sheet, poll book, list of voters, or election return deposited in a  
30 ballot box, envelope, ~~or~~ bag, **or voting system component**;  
31 commits a Class D felony.

32 SECTION 20. IC 3-14-2-29 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who  
34 knowingly inspects a ~~voting machine or electronic~~ voting system under  
35 IC 3-12-4-18 without obtaining authorization from the state recount  
36 commission to conduct the inspection commits a Class D felony.

37 SECTION 21. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE  
38 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
39 UPON PASSAGE]: **Sec. 1.5. A person who knowingly does any of**  
40 **the following commits a Class D felony:**

41 (1) **Procures or submits voter registration applications known**  
42 **by the person to be materially false, fictitious, or fraudulent.**

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**(2) Procures, casts, or tabulates ballots known by the person to be materially false, fictitious, or fraudulent.**

SECTION 22. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates ~~a ballot label on~~ a voting machine system or any part thereof of a voting system commits a Class D felony.

SECTION 23. IC 3-14-3-16, AS AMENDED BY P.L.66-2003, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

~~(B) fifty (50) feet of the entrance to the polls; or~~

**(B) the chute;**

(2) within an area in the office of the circuit court clerk used by an absentee voter board to permit an individual to cast an absentee ballot; or

**(3) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;**

commits a Class A misdemeanor.

SECTION 24. IC 3-14-3-18, AS AMENDED BY P.L.176-1999, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

- (1) Seeks to enforce the payment of a debt by force or threat of force.

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(2) Ejects or threatens to eject the voter or candidate from a house the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony.~~

**(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or a candidate with the intent that the voter or candidate:**

**(A) engage in conduct against the voter's or candidate's will; or**

**(B) be placed in fear of retaliation for a prior lawful act as a voter or a candidate.**

SECTION 25. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

**(1) cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; gives, offers, or promises to any person any money or other property commits a Class D felony.**

SECTION 26. IC 3-14-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

**(1) cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony.**

SECTION 27. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

**(1) voting or attempting to vote; or**

**(2) exercising any power or duty under this title concerning registration or voting;**

**commits voter intimidation, a Class D felony.**

SECTION 28. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall

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1 deliver the affidavit to the **county election board for delivery by the**  
 2 prosecuting attorney for the county ~~who~~ **to the grand jury under**  
 3 **section 2 of this chapter. The prosecuting attorney for the county**  
 4 shall:

5 (1) proceed as if the affidavit had been made before the  
 6 prosecuting attorney; and

7 (2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official  
 8 **under section 2 of this chapter** if a violation of NVRA appears  
 9 to have occurred.

10 SECTION 29. IC 3-14-5-2 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct  
 12 election board shall, at the close of the polls, place all affidavits  
 13 prescribed by this title for use on election day to determine the  
 14 eligibility of a precinct election officer (or a person who wishes to cast  
 15 a ballot) in a strong paper bag or envelope and securely seal it. Each  
 16 member shall endorse that member's name on the back of the bag or  
 17 envelope.

18 (b) The inspector and judge of the opposite political party shall  
 19 deliver the ~~sealed~~ bag or envelope to the county election board. ~~whose~~  
 20 ~~duty it is to~~ **The county election board shall do the following:**

21 (1) **Remove the affidavits from the bag or envelope.**

22 (2) **Mail a copy of each affidavit to the secretary of state.**

23 (3) **Replace the affidavits within the bag or envelope.**

24 (4) **Reseal the bag or envelope with the endorsement of the**  
 25 **name of each county election board member on the back of**  
 26 **the bag or envelope.**

27 (5) Carefully preserve ~~it~~ **the resealed bag or envelope** and  
 28 deliver it, with the **county election board's** seal unbroken, to the  
 29 foreman of the grand jury when next in session.

30 (c) The grand jury shall inquire into the truth or falsity of the  
 31 affidavits, and the court having jurisdiction over the grand jury shall  
 32 specially charge the jury as to its duties under this section.

33 (d) The grand jury shall file a report of the result of its inquiry with:

34 (1) the court; and

35 (2) the NVRA official if a violation of NVRA appears to have  
 36 occurred.

37 SECTION 30. IC 35-44-1-1 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person  
 39 who:

40 (1) confers, offers, or agrees to confer on a public servant, either  
 41 before or after the public servant becomes appointed, elected, or  
 42 qualified, any property except property the public servant is

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1 authorized by law to accept, with intent to control the  
 2 performance of an act related to the employment or function of  
 3 the public servant;

4 (2) being a public servant, solicits, accepts, or agrees to accept,  
 5 either before or after ~~he~~ **the person** becomes appointed, elected,  
 6 or qualified, any property, except property ~~he~~ **the person** is  
 7 authorized by law to accept, with intent to control the  
 8 performance of an act related to ~~his~~ **the person's** employment or  
 9 function as a public servant;

10 (3) confers, offers, or agrees to confer on a person any property,  
 11 except property the person is authorized by law to accept, with  
 12 intent to cause that person to control the performance of an act  
 13 related to the employment or function of a public servant;

14 (4) solicits, accepts, or agrees to accept any property, except  
 15 property ~~he~~ **the person** is authorized by law to accept, with intent  
 16 to control the performance of an act related to the employment or  
 17 function of a public servant;

18 (5) confers, offers, or agrees to confer any property on a person  
 19 participating or officiating in, or connected with, an athletic  
 20 contest, sporting event, or exhibition, with intent that the person  
 21 will fail to use ~~his~~ **the person's** best efforts in connection with  
 22 that contest, event, or exhibition;

23 (6) being a person participating or officiating in, or connected  
 24 with, an athletic contest, sporting event, or exhibition, solicits,  
 25 accepts, or agrees to accept any property with intent that ~~he~~ **the**  
 26 **person** will fail to use ~~his~~ **the person's** best efforts in connection  
 27 with that contest, event, or exhibition;

28 (7) being a witness or informant in an official proceeding or  
 29 investigation, solicits, accepts, or agrees to accept any property,  
 30 with intent to:

31 (i) (A) withhold any testimony, information, document, or  
 32 thing;

33 (ii) (B) avoid legal process summoning ~~him~~ **the person** to  
 34 testify or supply evidence; or

35 (iii) (C) absent ~~himself~~ **the person** from the proceeding or  
 36 investigation to which ~~he~~ **the person** has been legally  
 37 summoned; ~~or~~

38 (8) confers, offers, or agrees to confer any property on a witness  
 39 or informant in an official proceeding or investigation, with intent  
 40 that the witness or informant:

41 (i) (A) withhold any testimony, information, document, or  
 42 thing;

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- 1           ~~(ii)~~ **(B)** avoid legal process summoning the witness or  
 2           informant to testify or supply evidence; or  
 3           ~~(iii)~~ **(C)** absent ~~himself~~ **the person** from any proceeding or  
 4           investigation to which the witness or informant has been  
 5           legally summoned; **or**  
 6           **(9) confers, offers or agrees to confer any property on an**  
 7           **individual for:**  
 8               **(A) casting a ballot or refraining from casting a ballot; or**  
 9               **(B) voting for a political party, for a candidate, or for or**  
 10              **against a public question;**  
 11              **in an election described in IC 3-5-1-2, or at a convention of a**  
 12              **political party authorized under IC 3;**  
 13           commits bribery, a Class C felony.  
 14           (b) It is no defense that the person whom the accused person sought  
 15           to control was not qualified to act in the desired way.  
 16           SECTION 31. [EFFECTIVE UPON PASSAGE] **(a) The definitions**  
 17           **in IC 3-5-2 apply throughout this SECTION.**  
 18           **(b) Not later than March 31, 2004, the commission shall act**  
 19           **under IC 3-5-4-8 to prescribe absentee ballot application forms**  
 20           **that comply with IC 3-11, as amended by this act.**  
 21           **(c) This subsection does not apply to an absentee ballot**  
 22           **application form prescribed by the commission for use by an**  
 23           **absent uniformed services voter or overseas voter. An absentee**  
 24           **ballot application form prescribed by the commission before April**  
 25           **1, 2004, may not be used or accepted by a county election board**  
 26           **after March 31, 2004.**  
 27           **(d) This SECTION expires January 1, 2005.**  
 28           SECTION 32. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1151, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 3-11-4-2, AS AMENDED BY P.L.126-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. **Except as provided in subsection (b), the voter must sign the absentee ballot application.**

(b) **If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter.** If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) **A person who assists an individual in completing an absentee ballot application shall state the following information on the application:**

(1) **The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.**

(2) **The date and location at which this assistance was provided.**

(3) **That the individual has no knowledge or reason to believe that the individual submitting the application:**

(A) **is ineligible to vote or ineligible to cast an absentee ballot; or**

(B) **did not properly complete and sign the application.**

(d) **A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:**

(1) **noon seven (7) days after the individual receives the application; or**

(2) **the deadline set by Indiana law for filing the application with the board;**

**whichever occurs first.**

(e) **An individual filing an absentee ballot application received**

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from another individual must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

- (1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.
- (2) A statement that the individual filing the affidavit has complied with the Indiana laws governing the submission of absentee ballot applications.
- (3) A statement that the individual has no knowledge or reason to believe that the individual whose application is to be filed:
  - (A) is ineligible to vote or to cast an absentee ballot; or
  - (B) did not properly complete and sign the application.
- (4) A statement that the individual is executing the affidavit under the penalties of perjury.
- (5) A statement setting forth the penalties for perjury.

(f) The county election board shall record the date and time of the filing of the affidavit and provide the individual with a file stamped copy of the affidavit without collecting any copying fee.

SECTION 3. IC 3-11-4-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter which contains a standardized oath for those voters. The form of the application for an absentee ballot must:

- (1) require the applicant to swear to or affirm under the penalties of perjury that all the information set forth on the application is true to the best of the applicant's knowledge and belief;
- (2) require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(c) of this chapter; and
- (3) set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

- (1) requests an absentee ballot; and
- (2) is eligible to vote in the precinct under IC 3-10-11 or

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IC 3-10-12;  
must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board **(or the absentee voter board in the office of the circuit court clerk)** shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) the information set forth on the application appears to be true; and
- (3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. The members of the absentee voter board or the county election board may compare the voter's signature on the application with the voter's signature on the voter's registration record to make a determination under this subsection.

(b) If:

- (1) the applicant is not a voter of the precinct according to the registration record; or if
- (2) the application as completed and filed:
  - (A) contains a false statement; or
  - (B) does not otherwise comply with ~~this chapter~~; **Indiana or federal law;**

**as alleged under section 18.5 of this chapter**, the county election board shall deny the application.

~~(b)~~ (c) This subsection applies ~~after December 31, 2003~~, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and

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(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(c) This subsection applies after December 31, 2003:~~

**(d)** If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ **(e)** If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter."

Page 3, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 6. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:**

- (1) is not submitted by a voter of the precinct;**
- (2) contains a false statement; or**
- (3) has not been executed or filed in accordance with Indiana or federal law.**

**(b) The affidavit must be in a form prescribed by the**

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commission and state the following:

- (1) The name and title of the individual filing the affidavit.
- (2) A brief statement of the facts known or believed by the individual regarding why:
  - (A) the applicant is not a voter of the precinct;
  - (B) the application contains a false statement; or
  - (C) the application has not been executed or filed in accordance with Indiana or federal law.
- (3) That the individual is executing the affidavit under the penalties of perjury.
- (4) The penalties for perjury.

(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

SECTION 7. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

- (1) The name of the precinct and township (or ward and city or town).
- (2) That the voter is:
  - (A) a resident of; or
  - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.
- (3) The voter's complete residence address, including the name of the city or town and county.
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (5) That:
  - (A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;
  - (B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the

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individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or (C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

**(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury."**

Page 4, between lines 20 and 21, begin a new paragraph and insert:

**"(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall then deposit the sealed envelope in the United States mail for delivery to the county election board or may authorize a member of the voter's household or the individual designated as the voter's attorney in fact to deposit the envelope in the United States mail."**

Page 4, line 21, strike "(c)" and insert "(d)".

Page 4, after line 25 begin a new paragraph and insert:

**"SECTION 9. IC 3-11-10-25, AS AMENDED BY P.L.209-2003, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because of:**

**(1) illness or injury; or**

**(2) caring for a confined person at a private residence;**

**and who is within the county on election day may vote before an absentee voter board or by mail.**

**(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:**

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- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
  - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
  - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is

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cast and counted, including the issuance of replacement ballots.

**(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:**

- (1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**
- (2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**
- (3) Information concerning how to report violations of the absentee ballot and election laws.**

**SECTION 10. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. knowingly does any of the following commits a Class D felony:**

- (1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.**
- (2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.**
- (3) Pays or offers to pay an individual for doing any of the following:**
  - (A) Applying for an absentee ballot.**
  - (B) Casting an absentee ballot.**
  - (C) Registering to vote.**
  - (D) Voting.**
- (4) Accepts the payment of any property for doing any of the following:**
  - (A) Applying for an absentee ballot.**
  - (B) Casting an absentee ballot.**
  - (C) Registering to vote.**
  - (D) Voting.**

**SECTION 11. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to**

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vote or to vote, commits absentee ballot fraud, a Class D felony:

(1) Solicits the individual to complete an absentee ballot application.

(2) Solicits the individual to submit an absentee ballot application to a county election board.

SECTION 12. IC 3-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:

(1) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** knowing that the application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** without writing on it the person's own name and address as an attesting witness;

commits a ~~Class A misdemeanor~~ **Class D felony**.

SECTION 13. IC 3-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) A person who recklessly destroys or fails to deliver an absentee ballot application to the proper officer after the application has been executed in accordance with IC 3-11-4 commits a Class A misdemeanor.**

**(b) A person who recklessly destroys or fails to file or deliver to the proper officer a registration affidavit or form of registration after it the affidavit or form has been executed commits a Class A misdemeanor.**

SECTION 14. IC 3-14-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. A person who knowingly hires or solicits another person

~~(1) to come into Indiana; or~~

~~(2) to go from one precinct into another a precinct~~

for the purpose of voting at an election **at the precinct** when the person hired or solicited is not a voter in ~~Indiana~~ **or the precinct** commits a Class D felony.

SECTION 15. IC 3-14-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of the commission, an employee **or agent** of the ~~commission~~, **election division**, or a member, **an employee, or an agent** of a county election board who knowingly delivers a ballot to a person except in the manner prescribed by this title commits a Class D felony.

SECTION 16. IC 3-14-2-16, AS AMENDED BY P.L.38-1999, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A person who knowingly does any of the following commits a Class D felony:

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- (1) Applies for or receives a ballot in a precinct other than that precinct in which the person is entitled to vote.
- (2) Except when receiving assistance under IC 3-11-9, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.
- (3) Except when offering assistance requested by a voter in accordance with IC 3-11-9, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.
- (4) Receives from a voter a ballot prepared by the voter for voting, except:
  - (A) the inspector;
  - (B) a member of the precinct election board temporarily acting for the inspector;
  - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
  - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, **or an employee of the United States Postal Service**, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.
- (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.
- (6) Delivers a ballot to a voter to be voted, unless the person is:
  - (A) a poll clerk or authorized assistant poll clerk; or
  - (B) a member of a county election board or an absentee voter board acting under IC 3-11-10.
- (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.
- (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.
- (9) **Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:**
  - (A) the inspector;
  - (B) a member of the precinct election board temporarily acting for the inspector;
  - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
  - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, or an employee

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of the United States Postal Service, when mailing an envelope containing an absentee ballot under IC 3-11-10-1.  
**(10) Possesses an unmarked absentee ballot, unless the person is authorized to possess the absentee ballot under this title as any of the following:**

- (A) A printer.**
- (B) A county election board member.**
- (C) An absentee voter board member.**
- (D) An employee of the United States Postal Service when delivering an envelope containing an absentee ballot.**
- (E) An individual authorized to deliver an absentee ballot in a sealed envelope under IC 3-11-10-24.**
- (F) An absentee ballot counter under IC 3-11.5.**
- (G) A provisional ballot counter.**
- (H) A precinct election officer.**
- (I) The voter who applied for the absentee ballot.**
- (11) Completes or signs an absentee ballot application for a voter, or assists a voter in completing an absentee ballot application in violation of IC 3-11.**

SECTION 17. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who knowingly:

- (1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted on a voting ~~machine~~; **system**; or
  - (2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes on a voting ~~machine~~; **system**;
- commits a Class D felony.

SECTION 18. IC 3-14-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

- (1) takes a ballot legally deposited out of a ballot box **or out of a voting system** for the purpose of destroying ~~it the ballot~~ or substituting another **ballot** in its place;
  - (2) destroys or misplaces a ballot with the intent to substitute another ballot for it or with the intent to prevent it from being counted; or
  - (3) knowingly enters upon the poll books the name of a person who has not legally voted or knowingly tallies a vote for a candidate or on a public question not voted for by the ballot;
- commits a Class D felony.

SECTION 19. IC 3-14-2-26 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

- (1) during the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, ~~or~~ bag, **or voting system component** in which ballots have been deposited;
- (2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or voting system component** that contains ballots and cancels, withholds, or destroys a ballot;
- (3) knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting system component**; or
- (4) knowingly makes a fraudulent erasure or alteration on a tally sheet, poll book, list of voters, or election return deposited in a ballot box, envelope, ~~or~~ bag, **or voting system component**;

commits a Class D felony.

SECTION 20. IC 3-14-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who knowingly inspects a ~~voting machine or electronic~~ voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony.

SECTION 21. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. A person who knowingly does any of the following commits a Class D felony:**

- (1) Procures or submits voter registration applications known by the person to be materially false, fictitious, or fraudulent.**
- (2) Procures, casts, or tabulates ballots known by the person to be materially false, fictitious, or fraudulent.**

SECTION 22. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ~~ballot label on~~ a voting ~~machine~~ **system** or any part ~~thereof of a voting system~~ commits a Class D felony.

SECTION 23. IC 3-14-3-16, AS AMENDED BY P.L.66-2003,



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SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

~~(B) fifty (50) feet of the entrance to the polls; or~~

**(B) the chute;**

(2) within an area in the office of the circuit court clerk used by an absentee voter board to permit an individual to cast an absentee ballot; **or**

**(3) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;**

commits a Class A misdemeanor.

SECTION 24. IC 3-14-3-18, AS AMENDED BY P.L.176-1999, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

(1) Seeks to enforce the payment of a debt by force or threat of force.

(2) Ejects or threatens to eject the voter or candidate from a house the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony.~~

**(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or a candidate with the intent that the voter or candidate:**

**(A) engage in conduct against the voter's or candidate's will; or**

**(B) be placed in fear of retaliation for a prior lawful act as a voter or a candidate.**

SECTION 25. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

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**(1) cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; gives, offers, or promises to any person any money or other property commits a Class D felony.**

SECTION 26. IC 3-14-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

**(1) cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony.**

SECTION 27. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

**(1) voting or attempting to vote; or**

**(2) exercising any power or duty under this title concerning registration or voting;**

**commits voter intimidation, a Class D felony.**

SECTION 28. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the prosecuting attorney for the county** ~~who~~ **to the grand jury under section 2 of this chapter. The prosecuting attorney for the county shall:**

**(1) proceed as if the affidavit had been made before the prosecuting attorney; and**

**(2) ~~notify~~ ensure that the grand jury notifies** the NVRA official **under section 2 of this chapter** if a violation of NVRA appears to have occurred.

SECTION 29. IC 3-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each

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member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the **sealed** bag or envelope to the county election board. ~~whose duty it is to~~ **The county election board shall do the following:**

- (1) Remove the affidavits from the bag or envelope.**
- (2) Mail a copy of each affidavit to the secretary of state.**
- (3) Replace the affidavits within the bag or envelope.**
- (4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.**
- (5) Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.**

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

- (d) The grand jury shall file a report of the result of its inquiry with:
- (1) the court; and
  - (2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 30. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who:

- (1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;
- (2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he the person~~ becomes appointed, elected, or qualified, any property, except property ~~he the person~~ is authorized by law to accept, with intent to control the performance of an act related to ~~his the person's~~ employment or function as a public servant;
- (3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;
- (4) solicits, accepts, or agrees to accept any property, except property ~~he the person~~ is authorized by law to accept, with intent

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to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he~~ **the person** will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning ~~him~~ **the person** to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from the proceeding or investigation to which ~~he~~ **the person** has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning the witness or informant to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from any proceeding or investigation to which the witness or informant has been legally summoned; **or**

**(9) confers, offers or agrees to confer any property on an individual for:**

**(A) casting a ballot or refraining from casting a ballot; or**

**(B) voting for a political party, for a candidate, or for or against a public question;**

**in an election described in IC 3-5-1-2, or at a convention of a political party authorized under IC 3;**

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

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SECTION 31. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than March 31, 2004, the commission shall act under IC 3-5-4-8 to prescribe absentee ballot application forms that comply with IC 3-11, as amended by this act.

(c) This subsection does not apply to an absentee ballot application form prescribed by the commission for use by an absent uniformed services voter or overseas voter. An absentee ballot application form prescribed by the commission before April 1, 2004, may not be used or accepted by a county election board after March 31, 2004.

(d) This SECTION expires January 1, 2005.

SECTION 32. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1151 as introduced.)

MAHERN, Chair

Committee Vote: yeas 12, nays 0.

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